

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRICK P. SHALAKO HOUSTON,

Plaintiff,

v.

R. ZAVALA, *et al.*,

Defendants.

Case No. 2:20-cv-01455-KJD-NJK

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION**

Before the Court for consideration is the Report and Recommendation (ECF #21) containing the findings and recommendations of Magistrate Judge Nancy J. Koppe entered March 8, 2021, recommending that Plaintiff's *in forma pauperis* status be revoked and the action be dismissed without prejudice. Plaintiff did not object but filed a subsequent application for leave to proceed *in forma pauperis* on July 14, 2021 (ECF #23). The Court has conducted a de novo review of the record in this case in accordance with 28 U.S.C. § 636(b)(1) and LR IB 3-2. The Court determines that the Report and Recommendation containing the findings and recommendations of Magistrate Judge Koppe, entered March 8, 2021, should be **ADOPTED** and **AFFIRMED**.

Judge Koppe informed Plaintiff that he had to show that he was in imminent danger of serious physical injury to proceed *in forma pauperis* because he previously had three actions dismissed as frivolous, malicious, or for failing to state a claim upon which relief could be granted. (ECF #21, at 1–2). If he could not make such a showing, then the action would be dismissed unless Plaintiff paid his filing fees. *Id.* at 3. Plaintiff could not show imminent danger of serious physical injury and has not paid the filing fee. His most recent motion to proceed *in forma pauperis* also fails to allege imminent danger of serious physical injury.

1 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and
2 Recommendation (ECF #21) is **ADOPTED** and **AFFIRMED** and the action is dismissed
3 without prejudice.

4 IT IS FURTHER ORDERED that Plaintiff's Application for Leave to Proceed *in forma*
5 *pauperis* (ECF #23) is **DENIED as moot**.

6 Dated this 1st day of October, 2021.

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9 Kent J. Dawson
United States District Judge